

U.S. Department of Labor

Office of Administrative Law Judges
525 Vine Street, Suite 900
Cincinnati, Ohio 45202



DATE: April 3, 1995
CASE NO: 93-JTP-14

In the Matter of

GRAND RAPIDS INTER-TRIBAL COUNCIL

Complainant

v.

U.S. DEPARTMENT OF LABOR

Respondent

ORDER
**GRANTING PARTIAL STIPULATION OF DISMISSAL
and REMANDING FOR FURTHER PROCEEDINGS**

This proceeding arises under the Job Partnership Training Act, 29 U.S.C. §1501 et seq., as amended, and regulations published by the Secretary of Labor at 20 C.F.R. Parts 626 - 638. A Final Determination Letter, declaring that the Grand Rapids Inter-Tribal Council is indebted to the U.S. Department of Labor in the amount of \$219,195.00 was issued by a Grant/Contract Officer of the Employment and Training Administration, U.S. Department of Labor, on February 8, 1993. A request for hearing was filed and docketed on March 10, 1993.

A hearing was scheduled to begin on March 9, 1994, in Grand Rapids, Michigan. The hearing was cancelled upon the parties' representation that they had settled the case.

On April 11, 1994, a "Partial Stipulation Agreement" requesting "dismissal with prejudice of the Grantee's appeal regarding Findings I, II, III and V of the Grant Officers's Final Determination pending before the Office of Administrative Law Judges" was received. A cover letter indicated that Finding IV remained in dispute, pending review by the Grants Officer. In August, an exchange of telephone calls between this office and the parties' counsels revealed only that the issue regarding Finding IV remained unresolved, but that the parties were "hopeful" of reaching an agreement.


E-ALJ-000377

On February 16, 1995, I issued an Order to Show Cause, requiring the parties to explain why the hearing request should not be dismissed as abandoned or why the case should not be remanded to the Grants Officer for further proceedings. Both parties have timely responded to the Order.

Both parties have stated that their Stipulation Agreement requesting dismissal with prejudice of the Complainant's appeal with regard to Findings I, II, III and V should be granted. The Complainant requests that its appeal of issues regarding Finding IV be remanded to the Grants Officer for further consideration, arguing that lack of funding has prevented its compliance with its agreement to submit revised Financial Status Reports, but that the Department has indicated a continuing willingness to accept and review the reports once they have been prepared. In contrast, the Department of Labor contends that the Complainant has abandoned its appeal of Finding IV of the Grants Officer's Final Determination, that the appeal should be dismissed with prejudice, and that judgment in the amount of \$46,155, the sum disallowed in Finding IV, should be entered in its favor.

The parties have stipulated that the appeal of Findings I, II, III and V of the Grant Officer's Final Determination in this matter be dismissed with prejudice. Since there is no dispute regarding those findings, the parties' request for dismissal of the appeal of those issues is GRANTED.

However, the parties do not agree as to the disposition of issues regarding Finding IV. The Complainant has clearly not abandoned its appeal concerning Finding IV, but also has been unable, because of financial difficulties, to provide the revised Financial Status Reports which its agreement with the Department of Labor requires. In the Partial Stipulation Agreement, the Department has represented that if the revised financial reports are completed, submitted, reviewed and found acceptable in accordance with regulations, then the disallowed costs "will be allowed." The Complainant appears to be mixed in a predicament from which it cannot readily be extricated. In these circumstances, summary disposition of this matter in favor of either party is not appropriate. 29 C.F.R. S18.41. Moreover, it does not appear that this case is in proper posture to go forward with a hearing; informal resolution of the dispute is within the parties' grasp. Therefore, the issues regarding Finding IV are REMANDED to the Grants Officer for further proceedings directed to obtaining and reviewing the necessary financial reports, and resolving the disallowed costs issue without a formal hearing.


J. MICHAEL O'NEILL
Administrative Law Judge

SERVICE SHEET

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Case **no.** 93-JTP-14

Title of Document: ORDER GRANTING PARTIAL **STIPULATION**
OF DISMISSAL **and REMANDING** FOR FURTHER PROCEEDINGS

I hereby certify that the above-referenced document was mailed
this 3rd day of April, 1995 to the following
parties:

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